

REMARKS

1. Status of Claims

Claims 1, 4-9, 12-17, 20-22, and 28-33 were pending in the application. Independent claims 1, 17, 32, and 33 and dependent claims 15 and 30 have been amended. Claims 44-46 have been added. No new matter has been added.

Therefore, claims 1, 4-9, 12-17, 20-22, 28-33, and 44-46 are pending and are submitted for reconsideration.

In the interest of reducing the complexity of the issues for the Examiner to consider in this response, the following discussion focuses primarily on independent Claims 1, 17, 32, and 33. The patentability of each remaining dependent claim is not necessarily separately addressed in detail. However, applicants' decision not to discuss the differences between the cited art and each dependent claim should not be considered that these dependent claims are not separately patentable over the disclosure in the cited references. Similarly, applicants' decision not to discuss differences between the prior art and every claim element, or every comment made by the Examiner, should not be considered as an admission that applicants concur with the Examiner's interpretation and assertions regarding those claims. Indeed, applicants believe that all of the dependent claims patentably distinguish over the references cited. However, a specific traverse of the rejection of each dependent claim is not required, since dependent claims are patentable for at least the same reasons as the independent claims from which the dependent claims ultimately depend.

2. Rejections Under 35 U.S.C. 103

In the office action, claims 1, 4, 7-9, 12-15, 17, 20 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi (US 6,558,050) in view of Grosvenor et al. (US 2003/0025798, hereinafter "Grosvenor"). This rejection is respectfully traversed.

Claims 5, 6, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi and Grosvenor in view of Horimoto (US 4,009,943). This rejection is respectfully traversed.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi and Grosvenor in view of Moultrie, Jr. (US 2002/0159770). This rejection is respectfully traversed.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi and Grosvenor in view of Shiozaki et Al. (US 5,978,603). This rejection is respectfully traversed.

3. Cited Art

Ishibashi generally discusses a human body mounted camera which captures the status of the wearer. For example, Ishibashi describes capturing such indicators as pulse rate, body temperature, blood pressure, pupil size, sound, electric conductivity of the skin, vibration, and head orientation to determine the psychological state and whether the wearer is walking or not. Ishabashi uses this information to determine when and how frequently to take pictures.

Grosvenor is generally directed to identifying features of interest in sequential frames of an image. By moving a camera with the line-of-sight of a wearer, the features of interest to the wearer tend to be in multiple frames, and can be identified by a video processor.

Horimoto discloses a fish-eye lens system.

Moultrie, Jr. discloses a camera designed to operate outside, and to capture images when animals pass by, using a passive infrared detector.

Shiozaki discloses a camera with an LCD display.

4. Independent claims

Claim 1 as amended recites:

A portable recall device configured to be carried by a wearer comprising:

a camera;

at least one accelerometer operably connected to the camera that detects a stable condition of the camera; and

an environmental sensor operably connected to the camera that monitors an ambient condition, **the ambient condition including ambient light**, external to the wearer to detect a capture condition,

wherein detection of the capture condition and detection of the stable condition causes capture of an image by the camera. (Emphasis added.)

Ishibashi does not disclose that an environmental sensor operably connected to the camera that monitors an ambient condition, the ambient condition including ambient light, external to the wearer to detect a capture condition. In the office action, the Examiner states that "Ishibashi discloses in figure 4 that if a capture condition is detected at step #35 such that the quantity of change in pupil diameter is not lower than a predetermined level (which can be caused by a change in ambient lighting) . . ." Ishibashi does disclose measuring changes in pupil diameter, but it is possible both for pupil diameter to change without a change in ambient light (for example in the case of fright—Ishibashi uses an example of a big animal suddenly coming up before the wearer in column 6 lines 24–26), and for pupil diameter to not change with a change in ambient light (for example if a person is wearing dark sunglasses). Therefore detecting a change in pupil diameter is not the same as monitoring an ambient condition that

includes ambient light to detect a capture condition as recited in pending independent claim 1.

Ishibashi does not monitor ambient light and nor does it measure change in ambient light in order to detect a capture condition as recited in pending independent claim 1. Grosvenor does not remedy this deficiency in Ishibashi since Grosvenor does not generally monitor any ambient conditions, just line of sight.

In summary, "the ambient condition including ambient light" as recited in independent claim 1 is not disclosed or suggested by any of the applied references or their reasonable combination. Therefore, the office action fails to make a *prima facie* case of obviousness with respect to independent claim 1. Accordingly, this rejection should be withdrawn. Reconsideration and reexamination of this claim is respectfully requested.

Independent claims 17, 32, and 33 are also believed to be patentable for reasons that are analogous to that discussed above with respect to claim 1. Reconsideration and reexamination of these claims is respectfully requested.

5. Dependent Claims

The dependent claims are also patentable for at least the same reasons as the independent claims on which they ultimately depend. In addition, they recite additional features which are also patentable when considered as a whole. Thus claims 1-4, 7-9, 12-15, and 44 are believed to be patentable at least based on their dependency on claim 1. Reconsideration and reexamination of these claims is respectfully requested.

Furthermore, Claim 9 recites "The portable recall device of claim 1 wherein detection of the capture condition comprises detection of a change in ambient temperature." (Emphasis added) Ishabashi monitors body temperature, but does not monitor ambient temperature. It is possible both for body temperature to change without a change in ambient temperature (for example in the case of illness or other metabolic changes—Ishibashi uses an example of the

wearer eating a meal in column 6 lines 21-22), and for body temperature not to change with a change in ambient temperature (under normal conditions when a person is dressed for the weather). Therefore detecting a change in body temperature is different from detecting a capture condition wherein the capture condition comprises detection of a change in ambient temperature as recited in pending independent claim 1.

Ishibashi does not monitor ambient temperature and does not disclose detection of the capture condition comprises detection of a change in ambient temperature, as recited in pending dependent claim 9. Grosvenor does not remedy this deficiency in Ishibashi since Grosvenor does not generally monitor any ambient conditions.

Claims 20-22, 28-31 and 45 are dependent from claim 17, and are allowable at least because of that dependency. Reconsideration and reexamination of these claims is respectfully requested.

Claim 46 is dependent from claim 17, and is allowable at least because of that dependency. Reconsideration and reexamination of this claim is respectfully requested.

6. Conclusion

Accordingly, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Reconsideration and reexamination of the present application is requested. Based on the foregoing, applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the applicants' attorney at the telephone number listed below.

PATENT

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
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